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HOUSE BILL NO. 865

Offered January 26, 1998

A *BILL to amend and reenact §§ 9-182, 9-183.1, 9-183.3, 9-183.4, 9-183.6, 9-183.7, 9-183.9, 9-183.11, and 9-183.12 of the Code of Virginia, relating to the Department of Criminal Justice Services; regulation of the private security services; penalties.*

Patron—Keating

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-182, 9-183.1, 9-183.3, 9-183.4, 9-183.6, 9-183.7, 9-183.9, 9-183.11, and 9-183.12 of the Code of Virginia are amended and reenacted as follows:

§ 9-182. Compulsory training standards for private security services business personnel.

A. The Board shall have the power to issue regulations pursuant to Chapter 1.1:1 (§ 9-6.14:1 et seq.) of this title, establishing compulsory minimum, entry-level, in-service, and advanced training standards for persons employed by private security services businesses in classifications defined in § 9-183.1. The regulations may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and its regulations. In establishing by regulation compulsory training standards for each of the classifications defined in § 9-183.1, the Board shall be guided by the policy of this section which is to secure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section and Article 2.1 (§ 9-183.1 et seq.) of this title. The regulations may provide for exemption from such training for persons having previous employment as law-enforcement officers for a state or the federal government; however, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence. The regulations may include provisions for partial exemption from such training for persons having previous training which meets or exceeds the minimum training standards and has been approved by the Department, or for persons employed in classifications defined in § 9-183.1; however, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a private security services business employee was terminated because of his misconduct or incompetence.

B. *The Board shall have the power to enter into an agreement with other states for reciprocity or recognition of private security services businesses and their employees, duly licensed by such states. The agreements shall allow those businesses and their employees to provide and perform private security services within the Commonwealth to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses.*

C. The Board shall have the power to promulgate regulations pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses as follows:

1. To establish the qualifications of applicants for registration, *certification*, or licensure under Article 2.1 (§ 9-183.1) of Chapter 27 of this title;

2. To examine, or cause to be examined, the qualifications of each applicant for registration, *certification*, or licensure, including when necessary the preparation, administration and grading of examinations;

3. To certify *qualified applicants for private security training schools and instructors* or license qualified applicants as practitioners of private security services businesses;

4. To levy and collect fees for registration, *certification*, or licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of registration, *certification*, and licensure for private security services businesses *and training schools*;

5. To promulgate regulations necessary to ensure continued competency, and to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system promulgated by the Board;

6. To receive complaints concerning the conduct of any person whose activities are regulated by the Board, to conduct investigations, and to take appropriate disciplinary action if warranted; and

7. To revoke, suspend or fail to renew a registration, *certification*, or license for just cause as

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60 enumerated in regulations of the Board.

61 ~~C. D.~~ In promulgating its regulations under subsections A and ~~B~~ C of this section, the Board shall
62 seek the advice of the Private Security Services Advisory Board established pursuant to § 9-183.5.

63 § 9-183.1. Definitions.

64 As used in this chapter, unless the context requires a different meaning:

65 "Alarm respondent" means a natural person who responds to the signal of an alarm for the purpose
66 of detecting an intrusion of the home, business or property of the end user.

67 "*Armed*" means a private security registrant who carries or has immediate access to a firearm in the
68 performance of his duties.

69 "Armed security officer" means a security officer, as defined below, who carries or has immediate
70 access to a firearm ~~or other deadly weapon~~ in the performance of his duties.

71 "Armored car personnel" means persons who transport or offer to transport under armed security
72 from one place to another, money, negotiable instruments or other valuables in a specially equipped
73 motor vehicle with a high degree of security and certainty of delivery.

74 "Board" means the Criminal Justice Services Board or any successor board or agency.

75 "Business advertising material" means telephone directories, stationery, business cards, local
76 newspaper advertising and contracts.

77 "Central station dispatcher" means a natural person who monitors burglar alarm signal devices,
78 burglar alarms or any other electrical, mechanical or electronic device used to prevent or detect burglary,
79 theft, shoplifting, pilferage or similar losses; used to prevent or detect intrusion; or used primarily to
80 summon aid for other emergencies.

81 "*Certification*" means the method of regulation indicating that qualified persons have met the
82 minimum requirements as private security services training schools, private security services instructors,
83 compliance agents, unarmed security officers, electronic security employees, or electronic security
84 technician's assistants.

85 "Compliance agent" means a natural person who owns or is employed by a licensed private security
86 services business to ensure the compliance of the private security services business with this title.

87 "Courier" means any armed person who transports or offers to transport from one place to another
88 documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that
89 require expeditious services.

90 "Department" means the Department of Criminal Justice Services or any successor agency.

91 "Electronic security business" means any person who engages in the business of or undertakes to (i)
92 install, service, maintain, design or consult in the design of any electronic security equipment to an end
93 user ~~or~~, (ii) respond to or cause a response to electronic security equipment for an end user, *or* (iii) have
94 access to confidential information concerning the design, extent, status, password, contact list, *or*
95 location of an end user's electronic security equipment.

96 "Electronic security employee" means a natural person who is employed by an electronic security
97 business in any capacity which may give him access to information concerning the design, extent ~~or~~,
98 status, *password, contact list, or location* of an end user's electronic security equipment.

99 "Electronic security equipment" means electronic or mechanical alarm signaling devices including
100 burglar alarms or holdup alarms or cameras used to detect intrusions, concealment or theft.

101 "Electronic security equipment" shall not include tags, labels, and other devices which use radio
102 frequency-based technology and which are attached or affixed to items offered for sale, library books,
103 and other protected articles as part of an electronic article surveillance and theft detection and deterrence
104 system.

105 "Electronic security sales representative" means a natural person who sells electronic security
106 equipment on behalf of an electronic security business to the end user.

107 "Electronic security technician" means a natural person who installs, services, maintains or repairs
108 electronic security equipment.

109 "Electronic security technician's assistant" means a natural person who works as a laborer under the
110 supervision of the electronic security technician in the course of his normal duties, but who may not
111 make connections to any electronic security equipment.

112 "End user" means any person who purchases or leases electronic security equipment for use in that
113 person's home or business.

114 "*Firearms authorization*" means the method of regulation allowing a private security registrant to
115 carry or have immediate access to a firearm in the performance of his duties, and indicating verification
116 of successful completion of either entry-level or retraining requirements for handguns or shotguns, *or*
117 both.

118 "Guard dog handler" means any person employed by a private security services business to handle
119 dogs in the performance of duty in protection of property or persons.

120 "License number" means the official number issued to a private security services business licensed by
121 the Department.

122 "Person" means any individual, group of individuals, firm, company, corporation, partnership,
123 business, trust, association, or other legal entity.

124 "Personal protection specialist," ~~on and after July 1, 1995,~~ means any *natural* person who engages in
125 the business of ~~providing protection duties of providing close protection~~ from bodily harm to another
126 *individuals*.

127 "Private investigator" means any *natural* person who engages in the business of, or accepts
128 employment to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location,
129 disposition, or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to
130 persons or to property; or (iv) evidence to be used before any court, board, officer, or investigative
131 committee.

132 "Private security services business" means any person engaged in the business of providing, or who
133 undertakes to provide, ~~(i) armored car personnel, security officers, personal protection specialists, private~~
134 ~~investigators, couriers, or guard dog security canine handlers to another person under contract, express~~
135 ~~or implied or (ii) , security canine teams, alarm respondents, central station dispatchers, electronic~~
136 security employees, electronic security sales representatives or electronic security technicians *and their*
137 *assistants* to another person under contract, express or implied.

138 "*Private security services instructor*" means any *natural* person who delivers mandated instruction in
139 *private security subjects for a certified private security services training school*.

140 "*Private security services registrant*" means any *qualified natural* person who has met the
141 requirements under this article to perform the duties of alarm respondent, armored car personnel,
142 central station dispatcher, courier, electronic security sales representative, electronic security technician,
143 personal protection specialist, private investigator, security canine handler, or armed security officer.

144 "*Private security services training school*" means any person providing instruction in private security
145 subjects for the training of private security services business personnel in accordance with this article.

146 "Registration" means a method of regulation whereby certain personnel employed by a private
147 security services business are required to obtain a registration from the Department pursuant to this
148 article.

149 "*Security canine*" means a dog that has attended, completed, and been certified as a security canine
150 by a certified security canine handler instructor in accordance with approved Department procedures
151 and certification guidelines.

152 "*Security canine handler*" means any *natural* person who utilizes his security canine in the
153 performance of private security duties.

154 "*Security canine team*" means the security canine handler and his security canine performing private
155 security duties.

156 "Security officer" means any *natural* person employed by a private security services business to (i)
157 safeguard and protect ~~persons~~ the general populace and property or to (ii) prevent theft, loss, or
158 concealment of any tangible or intangible personal property *on the premises contracted to protect*.

159 "*Supervisor*" means any *natural* person with immediate supervision of private security registrants or
160 certified personnel.

161 "Unarmed security officer" means a security officer who does not carry or have immediate access to
162 a firearm or other deadly weapon in the performance of his duties.

163 § 9-183.3. Licensing, certification, and registration.

164 A. No person shall engage in the private security services business or solicit private security
165 business, ~~including, on and after July 1, 1995, the electronic security business in this~~ the Commonwealth
166 without having obtained a license from the Department. No person shall be issued a private security
167 services business license until a compliance agent is designated in writing on forms provided by the
168 Department. The compliance agent shall assure the compliance of the private security services business
169 with this article and shall meet the qualifications and perform the duties required by the regulations
170 promulgated by the ~~Department~~Board.

171 B. No person shall act as private security services training school or solicit students for private
172 security training in the Commonwealth without being certified by the Department. No person shall be
173 issued a private security services training school certification until a school director is designated in
174 writing on forms provided by the Department. The school director shall ensure compliance of such
175 school with the provisions of this article and shall meet the qualifications and perform the duties
176 required by the regulations promulgated by the Board.

177 B. C. No person shall be employed by a licensed private security services business in ~~this~~ the
178 Commonwealth as armored car personnel, courier, armed security officer, ~~guard dog security canine~~
179 handler, or private investigator without possessing a valid registration issued by the Department. ~~On and~~
180 ~~after July 1, 1995,~~ no person shall be employed as an ~~, or personal protection specialist,~~ alarm
181 respondent, central station dispatcher, electronic security sales representative ~~or,~~ electronic security
182 technician, or direct supervisor of such private security services personnel without possessing a valid

183 registration issued by the Department, *except as provided in this article.*

184 *D. A temporary license may be issued in accordance with Board regulations for the purpose of*
 185 *awaiting the results of the state and national fingerprint search. However, no person shall be issued a*
 186 *temporary license until (i) he has designated a compliance agent who has complied with the compulsory*
 187 *minimum training standards established by the Board pursuant to subsection A of § 9-182 for*
 188 *compliance agents, (ii) each principal of the business has submitted his fingerprints for a National*
 189 *Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other*
 190 *requirements of this article and the regulations of the Board.*

191 ~~C. No~~ *E. A temporary registration may be issued in accordance with Board regulations for the*
 192 *purpose of awaiting the results of the state and national fingerprint search. However, no person shall be*
 193 *issued a temporary registration until he has (i) complied with, or been exempted from the compulsory*
 194 *minimum training standards established by the Board, pursuant to subsection A of § 9-182, for armored*
 195 *car personnel, couriers, armed security officers, guard dog security canine handlers, private investigators,*
 196 *personal protection specialist, alarm respondents, central station dispatchers, electronic security sales*
 197 *representatives or electronic security technicians and, (ii) submitted his fingerprints to be used for the*
 198 *conduct of a National Criminal Records search and a Virginia Criminal History Records search, and the*
 199 *results of such searches have been submitted to the Department; however, a temporary registration may*
 200 *be issued as provided in the regulation for the purpose of awaiting the results of the state and national*
 201 *fingerprint search and (iii) met all other requirements of this article and the regulations of the Board.*

202 *F. A temporary certification as a private security instructor or private security training school may*
 203 *be issued in accordance with Board regulations for the purpose of awaiting the results of the state and*
 204 *national fingerprint search. However, no person shall be issued a temporary certification as a private*
 205 *security services instructor until he has (i) met the education, training and experience requirements*
 206 *established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National*
 207 *Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a*
 208 *temporary certification as a private security services training school until (i) he has designated a*
 209 *training director, (ii) each principal of the training school has submitted his fingerprints to be used for*
 210 *the conduct of a National Criminal Records search and a Virginia Criminal History Records search,*
 211 *and (iii) he has met all other requirements of this article and the regulations of the Board.*

212 ~~D.~~ *G. A licensed private security services business in this the Commonwealth shall not employ as an*
 213 *unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central*
 214 *station dispatcher, electronic security sales representative, or electronic security technician, any person*
 215 *who has not complied with, or been exempted from, the compulsory minimum training standards*
 216 *established by the Board, pursuant to subsection A of § 9-182 for unarmed security officers, except that*
 217 *such person may be so employed for not more than ninety days while completing compulsory minimum*
 218 *training standards.*

219 *H. No person shall be employed as an electronic security employee, electronic security technician's*
 220 *assistant, unarmed alarm respondent, central station dispatcher, electronic security sales representative,*
 221 *or electronic security technician until he has submitted his fingerprints to the Department to be used for*
 222 *the conduct of a National Criminal Records search and a Virginia Criminal History Records search.*

223 ~~E.~~ *I. The compliance agent of each licensed private security services business in the Commonwealth*
 224 *shall maintain documentary evidence that each (i) unarmed security officer employee private security*
 225 *registrant and certified employee employed by his private security services business has complied with,*
 226 *or been exempted from, the compulsory minimum training standards required by the Board for unarmed*
 227 *security officers and that an investigation to determine suitability of each unarmed security officer*
 228 *employee has been conducted, except that any such unarmed security officer, upon initiating a request*
 229 *for such investigation under the provisions of subdivision 11 of subsection A of § 19.2-389, may be*
 230 *employed for up to thirty days pending completion of such investigation and (ii) electronic security*
 231 *technician's assistant has complied with, or has been exempted from, the compulsory minimum training*
 232 *standards required by the Board for electronic security technician's assistants.*

233 *J. No person with a criminal record of a misdemeanor involving moral turpitude or any felony shall*
 234 *be employed as an unarmed security officer by a private security services business or training school, or*
 235 *issued a private security services registration, certification as an unarmed security officer, electronic*
 236 *security employee or technician's assistant, a private security services training school or instructor*
 237 *certification, compliance agent certification, or a private security services business license, except that,*
 238 *upon written request, the Director of the Department of Criminal Justice Services may waive such*
 239 *prohibition.*

240 ~~F.~~ *A licensed private security services business in the Commonwealth shall not employ as an*
 241 *electronic security technician's assistant, unarmed alarm respondent, central station dispatcher, electronic*
 242 *security sales representative, or electronic security technician, any person who has not complied with, or*
 243 *been exempted from, the compulsory minimum training standards established by the Board pursuant to*
 244 *subsection A of § 9-182 for electronic security technicians' assistants, unarmed alarm respondents, central*

245 station dispatchers, electronic security sales representatives, and electronic security technicians, except
 246 that such person may be employed for not more than ninety days while completing the compulsory
 247 minimum training standards.

248 No person shall be employed as an electronic security technician's assistant, unarmed alarm
 249 respondent, central station dispatcher, electronic security sales representative, or electronic security
 250 technician until he has submitted his fingerprints to the Department to be used for the conduct of a
 251 National Criminal Records search and a Virginia Criminal History Records search.

252 G. On and after July 1, 1994, no person shall be employed as an electronic security employee until
 253 (i) he has submitted his fingerprints to be used for the conduct of a national criminal records search and
 254 a Virginia criminal history records search and (ii) the results of the searches have been submitted to the
 255 Department. However, a temporary authorization to work may be issued while awaiting the results of the
 256 searches.

257 H. K. The Department may grant a temporary exemption from the requirement of a license or
 258 application for a , *certification*, or registration for a period of not more than thirty days in a situation
 259 deemed an emergency by the Department.

260 I. For a period of one year from July 1, 1995, any person subject to the provisions of subsections A,
 261 B and C of this section who has actually been employed by an electronic security business as an
 262 electronic security technician for a period of three years, a central station dispatcher for a period of one
 263 year, an electronic security sales representative for a period of one year, or an alarm respondent for a
 264 period of one year immediately preceding the date of application, may be registered; however, the
 265 Department shall require such person to submit satisfactory proof of his (i) full-time active engagement
 266 in such employment for such period and (ii) compliance with all applicable fees and requirements set
 267 forth in this chapter. The renewal of any registration shall be contingent upon the fulfillment of all rules
 268 and regulations promulgated by the Board.

269 J. For a period of one year from July 1, 1995, any person subject to the provisions of subsections A,
 270 B and C of this section who has actually been employed as a personal protection specialist for the three
 271 years immediately preceding the date of application, may be registered; however, the Department shall
 272 require such person to submit satisfactory documentation that he has (i) successfully completed personal
 273 protection training approved by the Department, (ii) been engaged in such employment for such period,
 274 and (iii) complied with all applicable fees and requirements set forth in this chapter. The renewal of any
 275 registration shall be contingent upon the fulfillment of all rules and regulations promulgated by the
 276 Board.

277 K. On or after July 1, 1997, all L. All private security services businesses and private security
 278 services training schools in the Commonwealth shall include their license or certification number on all
 279 business advertising materials.

280 § 9-183.4. Powers of Department.

281 In addition to the powers otherwise conferred upon it by law, the Department shall have the power
 282 to:

283 1. Charge each applicant for licensure, *certification* or registration a nonrefundable fee as established
 284 by the Board to cover the costs of the Department for processing an application for a registration,
 285 *certification* or license, and enforcement of these regulations, and other costs associated with the
 286 maintenance of this program of regulation.

287 2. Charge nonrefundable fees for private security services training as established by the Board for
 288 processing school registrations *certifications* and enforcement of training standards.

289 3. Conduct investigations to determine the suitability of applicants for registration, licensure, or
 290 instructor approval *certification of compliance agents, training schools, and instructors*. For purposes of
 291 this investigation, the Department shall have access to criminal history record information maintained by
 292 the Central Criminal Records Exchange of the Department of State Police and shall conduct a
 293 background investigation, to include a National Criminal Records search and a Virginia Criminal History
 294 Records search.

295 4. The Director, or agents appointed by him, are vested with the authority to administer oaths or
 296 affirmations for the purpose of receiving complaints and conducting investigations of violations of this
 297 article, or any regulation promulgated pursuant to authority given by this article. Information concerning
 298 alleged criminal violations shall be turned over to law-enforcement officers in appropriate jurisdictions.
 299 Agents shall be vested with authority to serve such paper or process issued by the Department or the
 300 Board under regulations approved by the Board.

301 5. In addition to the authority granted in § 9-6.14:13 to issue subpoenas, the Director or a designated
 302 subordinate shall have the right to make an ex parte application to the circuit court for the city or
 303 county wherein evidence sought is kept or wherein a licensee does business, for the issuance of a
 304 subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of
 305 the Department or the Board to request production of any relevant records, documents and physical or

306 other evidence of any person, partnership, association or corporation licensed or regulated by the
307 Department pursuant to this article. The court shall be authorized to issue and compel compliance with
308 such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to
309 believe that evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring
310 the immediate production of evidence.

311 6. *Recover costs of the investigation and adjudication of violations of this article or the regulations*
312 *of the Board. Such costs shall be recovered from the respondent when a sanction is imposed to fine or*
313 *place on probation, suspend, revoke, or deny the issuance of any license, certification, or registration.*
314 *Such costs shall be in addition to any monetary penalty which may be imposed. All costs recovered*
315 *shall be deposited into the state treasury to the credit of the Private Security Services Regulatory Fund.*

316 § 9-183.6. Bond or insurance required.

317 A. Every person licensed as a private security services business under subsection A of § 9-183.3 or
318 certified as a private security services training school under subsection B of § 9-183.3 shall, at the time
319 of receiving the license or certification and before the license or certification shall be operative, file
320 with the Department (i) a cash bond or evidence that the licensee or certificate holder is covered by a
321 surety bond, executed by a surety company authorized to do business in this Commonwealth, in a
322 reasonable amount to be fixed by the Department, conditioned upon the faithful and honest conduct of
323 his business or employment; or (ii) evidence of a policy of liability insurance in an amount and with
324 coverage as fixed by the Department.

325 B. If any person aggrieved by the misconduct of any person licensed or certified under subsection
326 subsections A or B of § 9-183.3 recovers judgment against the licensee or certificate holder, such person
327 may, after the return unsatisfied, either in whole or in part, of any execution issued upon such judgment,
328 maintain an action in his own name upon the bond of the licensee or certificate holder.

329 § 9-183.7. Fingerprints required.

330 Each applicant for registration, licensure or certification as a compliance agent, or private security
331 services training school or instructor under the provisions of this article and every person employed as
332 an electronic security employee or electronic security technician's assistant shall submit his fingerprints
333 to the Department on a form provided by the Department.

334 § 9-183.9. Penalties.

335 A. It shall be a Class 1 misdemeanor for any person required to possess a registration under
336 subsection B C of § 9-183.3 to be employed by a private security services business, except as provided
337 in this article, as armored car personnel, courier, armed security officer, guard dog security canine
338 handler, personal protection specialist, private investigator, alarm respondent, central station dispatcher,
339 electronic security sales representative or electronic security technician, or direct supervisor of such
340 private security services personnel without possessing a valid registration.

341 B. It shall be a Class 1 misdemeanor for any person licensed or required to be licensed under
342 subsection A of § 9-183.3 to employ or otherwise utilize, except as provided in this article, as armored
343 car personnel, courier, armed security officer, guard dog security canine handler, personal protection
344 specialist, private investigator, alarm respondent, central station dispatcher, electronic security sales
345 representative or, electronic security technician, or direct supervisor of such private security services
346 personnel, any person not possessing a valid registration.

347 C. It shall be a Class 1 misdemeanor for any compliance agent employed or otherwise utilized by a
348 person licensed or required to be licensed under subsection A of § 9-183.3, to employ or otherwise
349 utilize as an unarmed security officer, except as provided in this article, any individual for whom the
350 compliance agent does not possess documentary evidence of compliance with, or exemption from, the
351 compulsory minimum training standards established by the Board for unarmed security officers and
352 documentary evidence that an investigation to determine suitability has been conducted.

353 D. Except as provided by this article, it shall be a Class 1 misdemeanor for any compliance agent
354 employed or otherwise utilized by a person licensed or required to be licensed under subsection A of
355 § 9-183.3 to employ or otherwise utilize as an electronic security technician's assistant any individual for
356 whom the compliance agent does not possess documentary evidence of compliance with, or exemption
357 from, the compulsory minimum training standards established by the Board for electronic security
358 technician's assistants.

359 E. It shall be a Class 1 misdemeanor for any person required to possess an instructor certification
360 under subsection D of § 9-183.3 to provide mandated instruction, except as provided in § 9-182 and
361 regulations of the Board, without possessing a valid private security instructor certification.

362 F. It shall be a Class 1 misdemeanor for any person certified or required to be certified as a private
363 security services training school under subsection B of § 9-183.3 to employ or otherwise utilize, except
364 as provided in § 9-182 and the regulations of the Board, as a private security instructor, any person not
365 possessing a valid instructor certification.

366 § 9-183.11. Unlawful conduct; powers of Department; penalty.

367 A. It shall be unlawful for any person, partnership, corporation or other entity to engage in any of

368 the following acts:

369 1. Practicing any trade or profession licensed *or certified* under this article without obtaining the
370 necessary license, *certification* or registration required by statute or regulation;

371 2. Materially misrepresenting facts in an application for licensure, *certification* or registration;

372 3. Willfully refusing to furnish the Department information or records required or requested pursuant
373 to statute or regulation; and

374 4. Violating any statute or regulation governing the practice of the private security services
375 businesses *or training schools* regulated by this article.

376 Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of a
377 Class 1 misdemeanor. Any person convicted of a third or subsequent offense under this section during a
378 thirty-six-month period shall be guilty of a Class 6 felony.

379 B. In addition to the provisions of subsection A of this section, the Department may institute
380 proceedings in equity to enjoin any person, partnership, corporation or any other entity from engaging in
381 any unlawful act enumerated in this section. Such proceedings shall be brought in the name of the
382 Commonwealth by the Department in the circuit court of the city or county in which the unlawful act
383 occurred or in which the defendant resides.

384 § 9-183.12. Same; monetary penalty.

385 Any person licensed, *certified* or registered by the Board pursuant to this article who violates any
386 statute or regulation pertaining to the Board who is not criminally prosecuted shall be subject to the
387 monetary penalty provided in this section. If the Board determines that a respondent is guilty of the
388 violation complained of, the Board shall determine the amount of the monetary penalty for the violation,
389 which shall not exceed \$2,500 for each violation. The penalty may be sued for and recovered in the
390 name of the Commonwealth. *Such monetary penalty shall be paid into the state treasury to the credit of*
391 *the Literary Fund in accordance with § 19.2-353.*